IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6500 OF 2007

Smt. Premiben Budhiabhai Tandel & Ors. .. Petitioners

V/s

Keshavbhai B. Tandel & Ors. .. Respondents

Mrs. Teja Katdare i/b Ms.Alpa Javeri for the petitioners.

CORAM : S.B. MHASE &
D.G. KARNIK, JJ.

DATE : 4TH SEPTEMBER 2007

P.C. :

1. Heard.

2. By this petition, the petitioners challenge the order passed by the Administrative Tribunal, Daman in Eviction Appeal No.221/2001 (17/2004). By the said order, the appeal has been allowed, decree for eviction passed against the tenant has been set aside and the matter has been remanded to the Rent Controller, Daman to decide it afresh by giving opportunity to both the parties to lead evidence, if any, on merits as per the observations made in the judgment.

3. What we find is that earlier an appeal being

Appeal No.28 of 1994 arising from the same matter was filed which was decided on 30th May 1994. While remanding the matter, it was directed that the Rent Controller will decide the appeal on merits. However, the directions were followed and without recording the evidence as regards the amount of arrears of rent and adjustment of rent against the expenditure, if any, the Rent Controller decided the matter. This being the factual position, the order of the Rent Controller was set aside by the appellate authority and the matter has been remanded back. The order of remand is sustainable. It is unnecessary to enter into the other aspects of the matter.

4. In the circumstances, we refrain to entertain the petition. Petition is rejected.

(D.G. KARNIK, J.) (S.B. MHASE, J.)